



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-2900 FAX (603) 271-2456



January 8, 2001

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

**LETTER OF DEFICIENCY
No. WMD 01-01**

Timothy A. Austin, President
Timothy A. Austin Automotive Repair
119 NH Rte. 12N
Fitzwilliam, NH 03447

**RE: Timothy A. Austin Automotive Repair, Fitzwilliam, NH
EPA ID No. NHD 510101108**

Dear Mr. Austin:

On August 31, 2000, the Department of Environmental Services (DES) conducted a multi-media partial inspection of Timothy A. Austin Automotive Service, (Austin's) located in Fitzwilliam, New Hampshire. The purpose of the inspection was to determine Austin's general compliance with environmental standards across several media: air, water and hazardous waste. The hazardous waste portion of the inspection focused on the physical storage and handling of hazardous waste and served to determine Austin's compliance status with RSA Ch. 147-A and its implementing regulations, the New Hampshire Hazardous Waste Rules (codified as Env-Wm 100-1000).

We appreciate your efforts to comply with the requirements for hazardous waste generators. Please keep in mind that no formal evaluation of the pertinent administrative plans and documents, such as general inspection requirements for your hazardous waste storage areas, personnel training program, contingency plan, manifest requirements or other record keeping requirements, took place during the inspection. Austin's will need to ensure their compliance with all other applicable Hazardous Waste Rules.

As a result of the inspection, the following deficiencies were documented in your hazardous waste management program which need to be corrected:

1 Env-Wm 502.01 – hazardous waste determination

At the time of the inspection, Austin's stated that they were filtering solvent used in a brake cleaning operation, and disposing of the spent filters as solid waste.

Env-Wm 502.01 requires that all generators of waste determine if their waste is a hazardous waste. Waste determined to be hazardous must be handled pursuant to the requirements of the Hazardous Waste Rules.

DES requests that Austin's perform a hazardous waste determination on the spent brake cleaner filters. This determination should be made using analytical testing. This testing should include, at a minimum, Toxicity Characteristic Leaching Procedure for RCRA metals and organics under Env-Wm 403.06, and ignitability under Env-Wm 403.03. Austin's will need to provide the results of the hazardous waste determination, along with any other supporting data, such as chemical analyses, to DES. For your convenience, enclosed is a list of laboratories that perform hazardous waste analysis. Should the spent filters prove to be a hazardous waste, they would need to be segregated and collected for delivery to a

facility authorized to handle the hazardous waste. Alternatively, if the spent filters are determined to be non-hazardous, Austin's may continue to dispose of them as a solid waste. If Austin's chooses, they may consider their filters to be hazardous, and forego the expense of the testing as long as the appropriate hazardous waste number is assigned to the waste.

2. Env-Wm 807.06(b)(4) – standards for generators of used oil being recycled

At the time of the inspection, Austin's was storing used oil destined for recycling in numerous containers, none of which were labeled with the words "Used Oil for Recycle".

Env-Wm 807.06(b)(4) requires that generators of used oil destined for recycling label used oil containers and tanks with the words "Used Oil for Recycle" at all times during accumulation and storage.

DES requests that Austin's label all used oil containers destined for recycle with the words "Used Oil for Recycle" at all times during accumulation and storage.

3. Env-Wm 807.06(b)(5) – standards for generators of used oil being recycled

At the time of the inspection, Austin's was storing used oil destined for recycling in numerous containers which were not closed.

Env-Wm 807.06(b)(5) requires that used oil be placed in containers or tanks that remain closed at all times, except to add or remove waste.

DES requests that all used oil containers and tanks be kept closed at all times except to add or remove waste. Safety funnels which thread into the bung and have closeable lids that seal are acceptable for this purpose.

4. Env-Wm 807.06(b)(7) - standards for generators of used oil being recycled

At the time of the inspection, Austin's stated that they store used oil mixed with antifreeze until the phases separate and the oil can be decanted for later burning.

Env-Wm 807.06(b)(7) requires generators to conduct an initial determination of their used oil by analyzing it for all of the parameters specified in Env-Wm 807.02 and Env-Wm 807.03 (exclusive of PCBs if no source of PCBs is present).

DES requests that Austin's conduct an initial used oil determination on the used oil for the parameters outlined in Env-Wm 807.02 and Env-Wm 807.03. Enclosed with this correspondence is a list of analytical laboratories that perform the required testing.

At the time of the inspection it was noted that Austin's used oil is transported directly to the Fitzwilliam town garage for burning. Please be advised that Env-Wm 807.08(a)(1)a. of the New Hampshire Hazardous Waste Rules defines a "marketer" of used oil being recycled as a generator who transfers used oil directly to a burner. Since the Town of Fitzwilliam is burning the used oil on-site at their facility, Austin's is considered a marketer of used oil. As such, Austin's is subject to the provisions of Env-Wm 807.09 of the NH Hazardous Waste Rules, "Standards for Marketers of Used Oil Being Recycled", which includes, but is not limited to, notification, analysis of each batch of used oil transferred, shipment on a 3-copy bill of lading, and certain recordkeeping requirements.

However, if Austin's chooses instead to act only as a generator of used oil, then you only need to comply with the generator requirements of Env-Wm 807.06. Under Env-Wm 807.06, you will need to ensure that the oil is delivered to a facility authorized to accept it and use a registered hazardous waste transporter. As a generator, you may choose to use the self-transport option and transport up to 110 gallons at any one time, as long as the used oil is delivered to a notified marketer or authorized collection facility which will perform testing of the oil. Enclosed is a list of registered hazardous waste transporters who have also notified the Waste Management Division of their marketing activities. You may find that these marketers may pick-up your used oil directly at your business for delivery to an authorized facility at little or no cost to you.

At the time of the inspection it was also noted that Austin's has two floor drains in the service bays of their facility. Timothy Austin, owner of Austin's, stated that these floor drains were routed to a common line, which, during a prior remediation, was capped at the underground point where it exits the building. By copy of this letter, this issue has been referred to DES's Water Division (WD). Depending on the chemical composition and eventual fate of the floor drain waste, this practice may be subject to regulatory requirements by the WD. DES expects Austin's to pursue the issue of the discharge of the floor drains and any registration that may be necessary by contacting Mitchell Locker of the WD at 271-2858.

DES believes the cited deficiencies can be corrected and a report describing the corrective measures taken by Austin can be submitted within thirty (30) days of receipt of this letter. Supporting documentation describing the measures taken to achieve compliance should be included with the report.

In the event compliance is not achieved within this period, DES may take further action against Austin's, including issuing an order requiring that deficiencies be corrected, initiating an administrative fine proceeding, and/or referring the matter to the New Hampshire Department of Justice for imposition of civil and/or criminal penalties. In addition, DES personnel may reinspect your facility at a later date to determine whether the facility has come into, and is maintaining, full compliance with the applicable rules. Fines may be pursued for any or all violations observed during subsequent inspections of your facility.

The written report as requested above should be addressed as follows:

Kenneth W. Marschner, Administrator
DES/WMD
6 Hazen Drive
Concord, New Hampshire 03301-6509

Enclosed please find the Multi-Media Partial Inspection Checklist to assist you in assessing the noted violations. This checklist may also be of value to you for use in determining future compliance with the New Hampshire Hazardous Waste Rules.

For your information, a current, full set of the State of New Hampshire Hazardous Waste Rules, as well as much other useful information, can be obtained from DES's website at

<http://www.des.state.nh.us/hwcs/>


or by contacting the Public Information and Permitting Section at (603)271-2975.

It is the goal of DES to promote the prevention of pollution at the source as the preferred option for meeting established environmental quality goals. We strive to ensure that pollution prevention options are considered first, followed by recycling, treatment and disposal. I am requesting that DES's Pollution Prevention Coordinator, Stephanie D'Agostino, contact you to discuss possibilities for waste minimization or source reduction at your facility. In the meantime, if you have immediate questions about pollution prevention, please feel free to contact her at 271-6398.

As a service to New Hampshire's hazardous waste generators, we maintain a Hazardous Waste Assistance Hotline which is available for you to contact our knowledgeable staff of hazardous waste inspectors. Our hazardous waste staff are available to answer your questions concerning the New Hampshire Hazardous Waste Rules and the compliance issues which affect your hazardous waste management program. The technical assistance available through the Hotline includes fact sheets that pertain to the management and recycling of specific wastes, summary sheets on specific sections of the Hazardous Waste Rules, copies of EPA and New Hampshire hazardous waste policy or regulatory interpretation letters that may benefit your operation, and networks with other state or federal agencies to answer your questions on a national level. The Hotline is available Monday through Friday, 8:00 AM to 4:00 PM at 271-2942.

Should you have any questions regarding this letter, please contact the lead inspector, Tim Prospert or John J. Duclos, Supervisor of the Hazardous Waste Compliance Section, at 271-2942. Specific questions on water related issues, may be directed to Sharon Ducharme of the DES's Water Division at 271-3908, and for air related issues, please contact Pam Monroe of the DES's Air Resources Division at 271-1370. Thank you for your cooperation.

Sincerely,


Kenneth W. Marschner, Administrator
Waste Management Programs
Waste Management Division

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RCRA/DB/LOD/ARCHIVE

cc: Philip J. O'Brien, Ph.D., Director, WMD
Gretchen Rule, Esq., DES Enforcement Coordinator

e-mail: Stephanie D'Agostino, DES Pollution Prevention Coordinator
Sharon Ducharme, DES/WD
Pam Monroe, DES/ARD
Mitch Locker, DES/WD

Enclosures: Multi-Media Partial Inspection Checklist
New Hampshire Used Oil Marketers Fact Sheet
Laboratories Performing Used Oil Analysis Fact Sheet
List of Analytical Laboratories Fact Sheet
Summary of Used Oil Regulations Fact Sheet